

UNITED STATES BANKRUPTCY COURT  
EASTERN DISTRICT OF NEW YORK

***Return Date: October 10, 2013***  
***Time: 11:00 a.m.***

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In re:

THOMAS GIOELI, JR.

Chapter 13  
Case No.: 811-77379-736

Debtor(s)

**NOTICE OF MOTION**

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SIRS / MADAMS

**PLEASE TAKE NOTICE**, that MICHAEL J. MACCO, Chapter 13 Trustee of the above captioned estate, will move before the Honorable Robert E. Grossman, United States Bankruptcy Judge on the 10<sup>th</sup> day of OCTOBER, 2013 at 11:00 a.m., at the United States Bankruptcy Court located at the Long Island Federal Courthouse, 290 Federal Plaza – Courtroom 860, Central Islip, New York 11722, for an Order pursuant to 11 U.S.C. §1307(c), dismissing this case, by reason of the debtor(s)' default in making timely monthly plan payments under the Chapter 13 Plan, and for such other and further relief as this Court deems just and proper.

**PLEASE TAKE FURTHER NOTICE**, that answering papers, if any, shall be filed with the Court and served upon the undersigned no later that three (3) days prior to the return date of this motion.

Dated: Melville, New York  
September 23, 2013

Yours, etc.

MICHAEL J. MACCO  
Chapter 13 Trustee  
135 Pinelawn Road, Suite 120 South  
Melville, New York 11747  
(631) 549-7900

To: *Office of the United States Trustee*  
*Thomas Gioeli, Jr.*  
*Richard A. Jacoby, Esq., Attorney for Debtor(s)*  
*GMAC Mortgage, LLC, Creditor*  
*Ocwen Loan Servicing, LLC, Creditor*

UNITED STATES BANKRUPTCY COURT  
EASTERN DISTRICT OF NEW YORK

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In re:

THOMAS GIOELI, JR.

Chapter 13

Case No.: 811-77379-736

Debtor(s)

**APPLICATION**

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TO THE HONORABLE ROBERT E. GROSSMAN, UNITED STATES BANKRUPTCY  
JUDGE:

MICHAEL J. MACCO, Chapter 13 Trustee in the above captioned estate,  
respectfully represents as follows:

1. The debtor(s) filed a petition under the provisions of 11 U.S.C. Chapter 13 on  
October 19, 2011, and thereafter MICHAEL J. MACCO was duly appointed and has qualified as  
Trustee.

2. The debtor(s)' plan was confirmed by Order of this Court on March 8, 2012.

3. The debtor(s)' plan provides for payment to the Trustee in the sum of \$1,200.00  
per month, for a period of sixty (60) months.

4. The debtor(s) is in default in that the Trustee is owed the sum of \$7,200.00,  
representing six (6) monthly plan payments. This amount includes all plan payments due to the  
Trustee until the return date of this motion.

5. Furthermore, in the event this motion is adjourned to a later date, the Trustee  
requests that the motion be amended to include as arrearage, all payments that accrue from the  
date of the scheduled hearing until the adjourned hearing.

6. This is a material default and is prejudicial to the rights of the creditors of the  
debtor(s).

**WHEREFORE**, the Trustee prays for an Order pursuant to the provisions of 11  
U.S.C. §1307(c), dismissing this case, and for such other and further relief as this Court deems  
just and proper.

Dated: Melville, New York  
September 23, 2013

/s/ Michael J. Macco

Michael J. Macco, Chapter 13 Trustee  
135 Pinelawn Road – Suite 120 South  
Melville, New York 11747  
(631) 549-7900

STATE OF NEW YORK     )  
COUNTY OF SUFFOLK    )     ss.:

LONI BRAGIN, being duly sworn, deposes and says: deponent is not a party to this action, is over 18 years of age, and resides in Suffolk County, New York.

On September 23, 2013, deponent served the within:

**NOTICE OF MOTION AND APPLICATION**

upon the following parties, at the addresses designated by said parties for that purpose, by depositing a true copy of same, enclosed in a post-paid, properly addressed wrapper in an official depository under the exclusive care and custody of the United States Postal Service within the State of New York:

*Office of the United States Trustee  
Long Island Federal Courthouse  
560 Federal Plaza  
Central Islip, NY 11722*

*Ocwen Loan Servicing, LLC  
c/o Rosicki, Rosicki & Associates, P.C.  
51 East Bethpage Road  
Plainview, NY 11803*

*Thomas Gioeli, Jr.  
6 Windmill Road  
Oakdale, NY 11769*

*Richard Jacoby, Esq.  
Attorney for Debtor(s)  
1737 North Ocean Avenue  
Medford, NY 11763*

*GMAC Mortgage, LLC  
c/o Steven J. Baum, P.C.  
220 Northpointe Parkway, Ste. G  
Amherst, NY 14228*

*GMAC Mortgage, LLC  
c/o Rosicki, Rosicki & Associates, P.C.  
51 East Bethpage Road  
Plainview, NY 11803*

**/s/ Loni Bragin**  
LONI BRAGIN

Sworn to before me this  
23<sup>rd</sup> day of SEPTEMBER, 2013

**/s/ Janine M. Zarrilli**  
NOTARY PUBLIC  
Janine M. Zarrilli  
Notary Public, State of New York  
No. 01ZA5084708  
Qualified in Nassau County  
Commission Expires September 8, 2017